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SEP 21 2010

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NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND

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NORTHERN DISTRICT OF  
CALIFORNIA - OAKLAND

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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
TOMMY ANDRE GATES, )  
 )  
Defendant. )

No. CR-10-00039 SBA

**WITHDRAWAL OF APPEAL AND  
REQUEST TO STAY PRE-TRIAL  
RELEASE ORDER FOR DEFENDANT  
TOMMY ANDRE GATES AND  
[PROPOSED] ORDER**

Date:

Time:

Court:

Hon. Saundra Brown  
Armstrong

The United States withdraws its request that this Court stay the Order of Magistrate Judge Donna M. Ryu granting pre-trial release to a halfway house to defendant Tommy Andre Gates, and appeal of the same order. On August 23, 2010, Magistrate Judge Donna M. Ryu ordered the defendant released to Cornell Corrections Halfway House in San Francisco, California, subject to certain terms and conditions. On August 24, 2010, Magistrate Judge Donna M. Ryu stayed her order granting pre-trial release to defendant Tommy Andre Gates until "the Hon. Saundra Brown Armstrong can hear the United States' appeal [of the release order]." On September 1, 2010,

WITHDRAWAL OF APPEAL AND REQ. TO STAY  
PRE-TRIAL RELEASE ORDER AND [PROPOSED] ORDER  
No. CR-10-00039 SBA

cc: Copy to parties via ECF, Lisa Financial, Pref. Svcs.  
2 certified copies to U's Marshal

Magistrate Judge Donna M. Ryu filed her formal release order. On September 2, 2010, the United States filed its appeal of this decision. On September 8, 2010, District Court Judge Saundra Brown Armstrong granted the defendant's Motion to Suppress Evidence in this case. The United States is presently considering whether to appeal this decision. In light of the present posture of the case, the United States respectfully withdraws its appeal and request for stay at this time.

DATED: September 21, 2010

Respectfully submitted,

MELINDA HAAG  
United States Attorney

/s/  
TREVOR L. RUSIN  
Special Assistant United States Attorney

For the reasons stated above, the stay of the Order granting pre-trial release to a halfway house to defendant Tommy Andre Gates is hereby LIFTED, and defendant Tommy Andre Gates is to be released to the Cornell Corrections Halfway House in San Francisco, California, subject to the terms and conditions of this Court's August 23, 2010, release order.

IT IS SO ORDERED.

DATED: 9/21/10

  
HON. DONNA M. RYU  
United States Magistrate Judge

AUG 24 2010

DATE

CASE NUMBER

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

PROBATION SETTING CONDITIONS OF RELEASE AND APPEARANCE BOND

NAME OF DEFENDANT <b>TOMMY ANDRE GATES</b>		ADDRESS OF DEFENDANT <b>Cornell Corrections Halfway House San Francisco</b>		TELEPHONE NUMBER <b>(910) 575-5720</b>
NAME OF SURETY CO-SIGNER <b>TIFFANY DOYLE</b>		RELATIONSHIP TO DEFENDANT <b>(Def's significant other)</b>		ADDRESS OF SURETY CO-SIGNER <b>457 98th Ave Oakland, CA 94603</b>
NAME OF CUSTODIAN		RELATIONSHIP TO DEFENDANT		ADDRESS OF CUSTODIAN
AMOUNT OF BOND <b>\$100,000</b>	<input checked="" type="checkbox"/> UNSECURED <b>PR</b>	<input type="checkbox"/> SECURED BY	<input type="checkbox"/> DEPOSIT RECEIVED RECEIVED FROM:	OTHER SECURITY POSTED
TIME/DATE OF NEXT APPEARANCE <b>9/7/10 @ 9:00 am</b>			COURTROOM/JUDGE <b>Judge Armstrong</b>	

## CONDITIONS OF RELEASE AND APPEARANCE

Defendant is subject to each condition checked:

- ☒ Defendant shall appear at all proceedings as ordered by the Court and shall surrender for service of any sentence imposed.
- ☒ Defendant shall not commit any federal, state, or local crime.
- ☒ Defendant shall not harass, threaten, intimidate, injure, tamper with, or retaliate against any witness, victim, informant, juror, or officer of the Court, or obstruct any criminal investigation. See 18 U.S.C. 1503, 1510, 1512, and 1513, on reverse side.
- ☒ Defendant shall not travel outside the Northern District of California, that is, these counties: Alameda, Contra Costa, Del Norte, Humboldt, Lake, Marin, Mendocino, Monterey, Napa, San Benito, San Francisco, San Mateo; Santa Clara, Santa Cruz, and Sonoma. See map on reverse side.
- ☒ Defendant shall report in person immediately upon release and thereafter as directed to Pretrial Services in **Oakland/San Francisco**. See addresses and telephone numbers on reverse side.
- ☒ Defendant shall surrender all passports and visas to the Court by **ASAP if any** and shall not apply for any passports or other travel documents. **(Def said he has no pass port)**
- ☒ Defendant shall not possess any firearm, destructive device, or other dangerous weapon.
- ☐ Defendant shall remain in the custody of custodian \_\_\_\_\_ at \_\_\_\_\_ who agrees to supervise him/her and to report any violation of a release condition to Pretrial Services. A custodian who fails to do so may be prosecuted for contempt.
- ☒ Defendant shall participate in (drug) (alcohol) (mental health) counseling, and submit to (drug) (alcohol) testing, as directed by Pretrial Services.
- ☒ Defendant shall not use alcohol to excess and shall not use or possess any narcotic or other controlled substance without a legal prescription.
- ☐ Defendant shall maintain current employment, or if unemployed shall seek and maintain verifiable employment.
- ☐ Defendant shall submit to a warrantless search of his/her person, place of residence and vehicle at the direction of Pretrial Services.
- ☐ Defendant shall have no contact with any co-defendant out of the presence of counsel.
- ☒ Defendant shall not change residence without prior approval of Pretrial Services.
- ☐ Defendant shall comply with the following curfew: \_\_\_\_\_ to \_\_\_\_\_.
- ☐ Defendant shall be subject to electronic or voice track monitoring. Defendant may leave home for the purpose of \_\_\_\_\_.
- ☒ Defendant must ☒ reside in Halfway House **2 may leave only for court appearances, medical reasons & as pre-authorized or as directed by pre-trial Svcs.** ☐ participate in Residential Treatment \_\_\_\_\_.
- ☐ The following conditions also apply:

Defendant shall contribute to the cost of services provided by Pretrial Services as directed by Pretrial Services.

## CONSEQUENCES OF DEFENDANT'S FAILURE TO OBEY CONDITIONS OF RELEASE

Payment of the full amount of this bond shall be due forthwith, and all cash or property posted to secure it shall be forfeited. Judgment may be entered and executed against defendant and all sureties jointly and severally.

An arrest warrant for defendant shall issue immediately, and defendant may be detained without bail for the rest of the proceedings.

Defendant shall be subject to consecutive sentences and fines for failure to appear and/or for committing an offense while on release. See 18 U.S.C. 3146 and 3147, on reverse side.

We, the undersigned, have read and understand the terms of this bond and acknowledge that we are bound by it until duly exonerated.

SIGNATURE OF DEFENDANT <b>X Tommy Gates</b>	8/23/10	SIGNATURE(S) OF SURETY(IES) <b>X Tiffany Doyle</b>	8/23/10
SIGNATURE OF CUSTODIAN <b>X Tiffany Doyle</b>	8/23/2010	SIGNATURE OF MAGISTRATE JUDGE <b>[Signature]</b>	8/24/10

THIS ORDER AUTHORIZES THE MARSHAL TO RELEASE DEFENDANT FROM CUSTODY.